

Appln. No. 09/890,641  
Amdt. dated January 9, 2006  
Reply to Office Action of October 13, 2005

#### REMARKS/ARGUMENTS

Reconsideration of the present application, as amended, is respectfully requested.

The October 13, 2005 Office Action and the Examiner's comments have been carefully considered. In response, claims are cancelled and added, an RCE is submitted along with the appropriate fee, and remarks are set forth below in a sincere effort to place the present application in form for allowance. The amendments are supported by the application as originally filed. Therefore, no new matter is added.

#### ALLOWABLE SUBJECT MATTER

The Examiner's indication that claims 6, 14, 16 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims is acknowledged.

#### PRIOR ART REJECTIONS

In the Office Action, claims 1, 2, 4, 5, 7, 8, 17 and 18 are rejected under 35 USC 102(e) as being unpatentable over U.S. Patent Application Publication No. 2003/0123628 (Rhodes). Claims

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3-13, 16 and 20 are rejected under 35 USC 103 as being unpatentable over Rhodes in view of USP 5,950,125 (Buhrmann et al.).

Initially, in order to clarify the record, Applicant respectfully points out to the Examiner that his rejection under 35 USC 103 appears to be inaccurate. The Examiner rejected claims 3, 9-13, 16 and 20. However, claim 12 should not have been included in the rejection since claim 12 was cancelled in the Amendment filed July 29, 2005. Therefore, the rejection under 35 USC 103 should have included only claims 3, 9-11, 13, 16 and 20.

In response to the rejection set forth above, all of the prior pending claims have been cancelled and new claims 21-38 are added.

New independent claim 21 is directed to a method for access-point dependent calculation of communication rates by way of a specific network. The method includes the steps of generating connecting data relating to telecommunication links obtained and used by a subscriber or a group of subscribers. The connecting data contains data identifying the access point used for each telecommunication link. The method also includes the step of using the data identifying the access point used for each

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telecommunication link to associate a specific rate to the access point or a plurality of access points most used by the subscriber or group of subscribers. The method further includes automatically modifying the access point or the plurality of access points to which specific rates are associated if use of the access point or the plurality of access points is modified.

The present claimed invention as defined by claim 21 adjusts a user's billing based upon the network access points used by the subscriber. That is, the present invention assigns preferential billing rates to a subscriber on the basis of the network access points used by that subscriber. Specifically, the network access points used most frequently by the user are given preferential billing rates as compared to the network access points which are not most used by the subscriber or group of subscribers.

In contrast, Rhodes teaches a method for adjustable billing based on the type of information being transmitted over the connection. That is, a connection in a telephone network may be used for voice or data, and Rhodes' method allows higher fees to be charged for data transmission than for voice transmission (see paragraph 0006).

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In summary, Rhodes' method is dependent on the type of information being transmitted to determine user charges, while the method of the present claimed invention is dependent upon the point of network access to transmit the information to determine the charge rate.

None of the other references of record close the gap between the present claimed invention as defined by claim 21 and Rhodes.

In view of the foregoing, claim 21 is patentable over Rhodes and all of the other references of record under 35 USC 102 as well as 35 USC 103.

Claim 27 is an apparatus claim which corresponds to claim 21, and is patentable over the cited references for reasons, inter alia, set forth above in connection with claim 21.

Claims 22-26 and 28-33 are either directly or indirectly dependent on independent claims 21 or 27 and are patentable in view of their dependence on claim 21 or 27 and because the references do not disclose, teach or suggest each of the limitations set forth in the dependent claims.

In view of all of the foregoing, claims 21-33 are in form for immediate allowance, which action is earnestly solicited.

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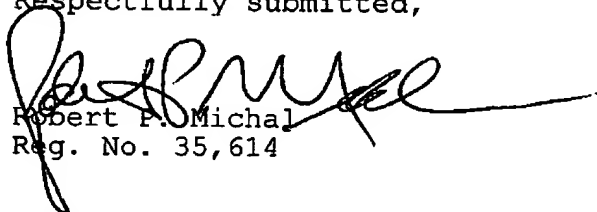
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If the Examiner disagrees with any of the foregoing, the Examiner is respectfully requested to point out where there is support for a contrary view.

Entry of this Amendment, allowance of the claims, and the passing of this application to issue are respectfully solicited.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,

  
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